

AO 241
(Rev. 12/04)

Page 2

ORIGINAL**PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

United States District Court		District: of Delaware
Name (under which you were convicted): <u>MICHAEL KEVIN HOFFMAN</u>		Docket or Case No.: <u>06-473</u>
Place of Confinement: <u>CENTRAL VIOLATION CENTER / PO Box 5003 SMYRNA DE</u>		Prisoner No.: <u>00426044</u>
Petitioner (include the name under which you were convicted) <u>MICHAEL KEVIN HOFFMAN #426044</u> <u>PO Box 5003</u> <u>SMYRNA DE</u>		Respondent (authorized person having custody of petitioner) <u>WARDEN VINCENT BIANCO</u> <u>V. CENTRAL VIOLATION CENTER</u> <u>PO Box 5003</u> <u>SMYRNA DELAWARE</u>
The Attorney General of the State of <u>CARL C. DANBERG ATTORNEY GENERAL</u>		

PETITION

FILED
CLERK U.S. DISTRICT COURT
DISTRICT OF DELAWARE
2006 AUG -2 AM 9:36

- (a) Name and location of court that entered the judgment of conviction you are challenging:
SUPERIOR COURT NEW CASTLE COUNTY DELAWARE
JUDGE RICHARD R. COUCH
- (b) Criminal docket or case number (if you know): CASE # 9912017771 CRA # 00010272-04-05
- (a) Date of the judgment of conviction (if you know): JUNE 13, 2006, JUNE 8, 2006 VAP
- (b) Date of sentencing: AUGUST 21, 2001
- Length of sentence: 2 YEARS Level IV SUSPENDED AFTER 6 MONTHS W/R 18 MONTHS Level III
- In this case, were you convicted on more than one count or of more than one crime? ☐ Yes ☒ No
- Identify all crimes of which you were convicted and sentenced in this case: DELAWARE CODES
TITLE 11 1112(a) SEX SOLE CHILD (1 COUNT ORIGINAL SENTENCE
FROM MAY 30, 03 5 YEARS Level 5 SUSPENDED AFTER 1 YEAR FOR 6
MONTHS HOME CONFINEMENT FOLLOWED BY 3 1/2 YR AT Level 3
PROBATION
- (a) What was your plea? (Check one)

<input type="checkbox"/> (1) Not guilty	<input type="checkbox"/> (3) Nolo contendere (no contest)
<input checked="" type="checkbox"/> (2) Guilty	<input type="checkbox"/> (4) Insanity plea

(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? TOLD BY DEFENSE COUNSEL TO
SIGN A TIS GUILTY PLEA IN CASE WAS NOT READ THE

CONSEQUENCES BY COUNSEL OF THE PIAA ENTERED ON
AUGUST 21, 2001 PETITIONER WAS TOLD TO SIGN THE PIAA WITHOUT
UNDERSTANDING OF THE CONSEQUENCES OF THE SENTENCE

(c) If you went to trial, what kind of trial did you have? (Check one)

☐ Jury ☒ Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☐ Yes ☒ No

8. Did you appeal from the judgment of conviction?

☐ Yes ☒ No

9. If you did appeal, answer the following:

(a) Name of court: NA

(b) Docket or case number (if you know): NA

(c) Result: NA

(d) Date of result (if you know): NA

(e) Citation to the case (if you know): NA

(f) Grounds raised: NA

(g) Did you seek further review by a higher state court? ☒ Yes ☐ No

If yes, answer the following:

(1) Name of court: SUPREME COURT STATE OF DELAWARE

(2) Docket or case number (if you know):

(3) Result: DEFENSE COUNSEL ADVISED PETITIONER TO SIGN A
VOLUNTARILY DISMISSAL OF VOP APPEAL CRA# 0001027201

(4) Date of result (if you know): MARCH 2004

(5) Citation to the case (if you know): ON FILE SUPERIOR CT / SUPREME CT

(6) Grounds raised: APPEAL VOP TO SUPREME COURT NUMEROUS
CONSTITUTIONAL VIOLATIONS DUE PROCESS WAS NOT PROPERLY
JUSTIFIED INEFFECTIVE ASSISTANCE OF COUNSEL

ILLEGAL SEARCH + SEIZURE by Home confinement(h) Did you file a petition for certiorari in the United States Supreme Court? ☐ Yes ☒ No

If yes, answer the following:

(1) Docket or case number (if you know): N/A(2) Result: N/A(3) Date of result (if you know): N/A(4) Citation to the case (if you know): N/A10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? ☒ Yes ☐ No

11. If your answer to Question 10 was "Yes," give the following information:

- (a) (1) Name of court: SUPERIOR CT NEW CASTLE COUNTY DELAWARE
 (2) Docket or case number (if you know): CASE # 0001007201-02-03-04-05
NOV CRA # 991201771
 (3) Date of filing (if you know): FROM 2004 TO 2006 NUMEROUS MOTIONS
 (4) Nature of the proceeding: MOTION MODIFICATION SENTENCE / HABEAS CORPUS
 (5) Grounds raised: VIOLATION OF PROCEDURAL DUE PROCESS RIGHTS
DEPRIVATION LIFE + LIBERTY ILLEGAL SEARCH SEIZURE
INEFFECTIVE ASSISTANCE OF DEFENSE COUNSEL SEEKING
REJECT ON MOTIONS DUE TO SENTENCE OF PROBATIONARY
TERMS NOT COMPLYING WITH LEGISLATIVE SENATE BILL
50, THE SENTENCING JUDGE DENIING ALL MOTIONS
FILED IN THIS CASE WHEN THERE WAS PROVEN FACTS
SUPPORTING PETITIONERS MOTIONS.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No(7) Result: N/A NO HEARING HEARD(8) Date of result (if you know): NO HEARING HEARD

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: SUPERIOR COURT NEW CASTLE COUNTY(2) Docket or case number (if you know): (3) Date of filing (if you know): SEVERAL FILED ON THIS CASE 2005-2006(4) Nature of the proceeding: HABEAS CORPUS MOTION / PETITION

(5) Grounds raised: PETITIONER WAS SEEKING ~~RELEAF~~ RELIEF
He HAS BEEN DEPRIVED OF HIS LIBERTY WITHOUT
DUE PROCESS OF LAW BY BEING DETAINED AT A
LEVEL 4 FACILITY AWAITING SPACE AVAILABILITY FOR
WORK RELEASE WHEN THERE WAS SPACE AVAILABILITY
AND OTHERS RECENTLY SENTENCED TO SAME TOOK
PLACEMENT AND PETITIONER HAS AWAITED SPACE
AVAILABILITY WHEN THERE IS AVAILABLE SPACE AT WORK RELEASE
PETITIONER STILL REMAINS DETAINED AT VIOLATION CENTER AWAITING
SPACE AVAILABILITY

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

(7) Result: NO HEARING HEARD

(8) Date of result (if you know): NO HEARING HEARD

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: SUPERIOR COURT NEWCASTLE COUNTY

(2) Docket or case number (if you know): ~~201~~ 9912017771 CRA 00010272-04-05

(3) Date of filing (if you know): JULY 10, JULY 13, 06

(4) Nature of the proceeding: RECENT HABEAS CORPUS / MODIFICATION SENTENCE

(5) Grounds raised: PETITIONER IS CURRENTLY BEING DETAINED AT
THE CVOP CENTER AGAINST HIS LIBERTY HE IS BEING
DEPRIVED OF LIFE + LIBERTY WHEN THE SVOP CENTER
TRANSFERRED OTHERS RECENTLY AND THEY TOOK PLACEMENT
AT WORK RELEASE. PETITIONER WAS SENT TO CVOP TO AWAIT
SPACE AVAILABILITY SECONDLY THE SENTENCING COURT ORDERED
SUSSEX WRC AND THE DOC. CHANGED THE COURT'S ORDER TO
PLUMMER. DEFENSE COUNSEL PETER LETANG WAS INEFFECTIVE
WHEN HE EXPLAINED TO PETITIONER THAT HIM AND THE SENTENCING
JUDGE ARE PERSONAL FRIENDS CONFLICT OF INTEREST TOOK PLACE AT HIS

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? NO PROCEEDING

☐ Yes ☒ No

(7) Result: NO REPLY BACK FROM COURTS ATTACHED COPY OF MOTION

(8) Date of result (if you know): N/A

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

- (1) First petition: ☒ Yes ☐ No
 (2) Second petition: ☒ Yes ☐ No
 (3) Third petition: ☒ Yes ☐ No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: PROCEDURAL DUE PROCESS, DEPRIVATION OF
LIFE AND LIBERTY WITHOUT DUE PROCESS OF LAW

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

PETITIONER WAS DEPRIVED OF LIFE AND LIBERTY ON NUMEROUS
OCCASIONS WHEN THE STATE FAILED TO PLACE PETITIONER AT WORK
RELEASE AND OTHERS SENTENCED TO SAME TOOK PLACEMENT AT WORK
RELEASE MOTION FOR MODIFICATION WAS FILED ASKING THE COURTS
TO DIRECT THE DOC AS PER WRIT OF HABEAS CORPUS TO DIRECT DOC TO
PLACE PETITIONER IN WORK RELEASE OR RELEASE PETITIONER TO LEVEL
III PROBATIONARY DOC FAILED TO MEET THE COURTS ORDER OF WORK RELEASE
SENTENCE IN AN ACCEPTABLE AMOUNT OF TIME

(b) If you did not exhaust your state remedies on Ground One, explain why: ALL STATE REMEDIES WERE
EXHAUSTED IN STATE COURT AND SUPREME COURT OF DELAWARE

(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

☒ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: MOTION FOR MODIFICATION / SENTENCE REDUCTION

Name and location of the court where the motion or petition was filed: SUPERIOR COURT
NEW CASTLE COUNTY 500 NORTH KING STREET WILMINGTON DE

Docket or case number (if you know): 9912017771 CRA# 10272-03 VOP #3

Date of the court's decision: JUNE 2005

Result (attach a copy of the court's opinion or order, if available): MOTION DENIED BY
JUDGE COOCH AUGUST 2005

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☒ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☒ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: NH

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

MOTION WAS DENIED APPELLANT RIGHTS WERE NOT ADVISED TO
PETITIONER AT THE PROCEEDING.

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: HABEAS CORPUS WRIT.

DEPRIVATION OF LIFE + LIBERTY WHEN PETITIONER WAS BEING HELD AT VOP
AWAITING A VOP HEARING MORE THEN 2 WEEKS.

GROUND TWO: INEFFECTIVE ASSISTANCE DEFENSE COUNSEL
6th US CONST AMENDMENT CLAIM.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

DEFENSE COUNSEL SHOWED TOTAL INEFFECTIVE WHEN HE FIRST WAS TRYING
TO PLACE PETITIONER IN AN INPATIENT TREATMENT PROGRAM THE SENTENCING

STATED ON RECORD THEY WOULD CONSIDER THE KEYSTONE CENTER IN CHESTER PENNSYLVANIA CONFLICT OF INTEREST TOOK PLACE AT THIS VOP 10272-04-05 WHEN DEFENSE COUNSEL STATED TO PETITIONER HE WAS PERSONAL FRIENDS OF THE SENTENCING JUDGE WHICH SIDE BAR TOOK PLACE AT THE PROCEEDING NOT MAKING PETITIONER AWARE OF WHAT WAS GOING ON WITH THE PROCEEDING.

(b) If you did not exhaust your state remedies on Ground Two, explain why: CONTINUED. THE COURT KNEW HOME CONFINEMENT COULD NOT BE PLACED FOR PETITIONER DUE TO A PRIOR INCIDENT, WHICH THE COURTS CONTINUED TO PLACE PETITIONER ON HK THEN MODIFIED THE SENTENCE TO WORK RELEASE

(c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

☒ Yes ☐ No(2) If you did not raise this issue in your direct appeal, explain why:

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: ^{SUPERIOR CT} RULE 61 POST CONVICTION MOTION

Name and location of the court where the motion or petition was filed: NEW CASTLE

SUPERIOR CT 500 N KING STREET WILMINGTON DE 19801

Docket or case number (if you know): 9912017771 / CRA 00010272-01-02-03-04-05

Date of the court's decision: JUNE 8, 2006 SUPREME CASE # 370-2006

Result (attach a copy of the court's opinion or order, if available): MOTION AVAILABLE AT

SUPERIOR COURT NEW CASTLE DELAWARE

(3) Did you receive a hearing on your motion or petition?

☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition?

☒ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☒ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: SUPREME COURT OF

DELAWARE 55 THE GREEN DOVER DELAWARE

Docket or case number (if you know): 370-2006

Date of the court's decision: PENDING Appeal in Supreme CourtResult (attach a copy of the court's opinion or order, if available): NA

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

NA

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you :
have used to exhaust your state remedies on Ground Two THE STATE FAILED TO PROVE A

PRIMA FACIAL CASE; NUMEROUS VOP VIOLATION OF PROBATION
DUE PROCESS WAS NOT PROPERLY JUSTIFIED. INEFFECTIVE ASSISTANCE
OF COUNSEL

GROUND THREE: LEGISLATIVE SENATE BILL 50

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

THE PROBATIONARY term IS GREATER THEN THE sentence AND
WHICH DOES NOT COMPLY WITH THIS BILL THE PROBATIONARY term
IS EXCESSIVE, WHICH DOES NOT COMPLY WITH THE SENATE BILL 50

- (b) If you did not exhaust your state remedies on Ground Three, explain why: ~~HABEAS~~ HABEAS CORPUS

MOTION FILED ON JULY 13 06 (ATTACHED)

- (c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

☒ Yes☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

- (d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: MOTION FOR MODIFICATION / REDUCTION SENTENCE

Name and location of the court where the motion or petition was filed: NEW CASTLE COUNTY
SUPERIOR COURT

Docket or case number (if you know): CASE # 9912017771 CRA # 00010272-05

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): NO DECISION WAS

RENDERED AT THIS TIME MOTION FILED JULY 06 AWAITING DECISION

COURT FAILED TO RENDER DECISION ON HABEAS CORPUS FILED TIMELY MOTION PRIOR TO 10 DAY

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☒ No Limitation

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☒ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☒ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: NA

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: _____

GROUND FOUR: _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Four, explain why: _____

(c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why: N/A

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: N/A

Name and location of the court where the motion or petition was filed: N/A

Docket or case number (if you know): _____

Date of the court's decision: N/A

Result (attach a copy of the court's opinion or order, if available): N/A

(3) Did you receive a hearing on your motion or petition?

☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes ☒ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes ☒ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: N/A

N/A

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

N/A

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: _____
- _____
- _____
- _____

13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☒ Yes ☐ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: _____

N/A

- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:
- N/A
- _____
- _____

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

NA

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ☒ Yes ☐ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

HADEAS CORPUS NEW CASTLE SUPERIOR COURT #10272-04-05
Motion FOR MANDAMUS UNDER MODIFICATION OF Sentence
MOTION #10272-04-05 NEW CASTLE SUPERIOR CT 500 N King ST Wilmington DE
APPEAL Supreme CT 55 The GREEN DOVE DE

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: DAVID FACCILO (ASST) PUBLIC Defender
820 N French STREET Wilmington Delaware

(b) At arraignment and plea: DAVID FACCILO (ASST) PUBLIC Defender
820 N French STREET Wilmington Delaware

(c) At trial: DAVID FACCILO (ASST) PUBLIC Defender
820 N French STREET Wilmington DE 19804

(d) At sentencing: DAVID FACCILO (ASST) PUBLIC Defender
820 N French STREET Wilmington Delaware

(e) On appeal: PETER LETANG ESQ
VOP RECENT
1716 WAWA SET STREET WILMINGTON DE

(f) In any post-conviction proceeding: PETER LETANG ESQ
PO Box 188
1716 WAWA SET STREET WILMINGTON DELAWARE, 19899

(g) On appeal from any ruling against you in a post-conviction proceeding: PETER LETANG ESQ
PO Box 188
1716 WAWA SET STREET
Wilmington DELAWARE

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☒ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

_____ *NA* _____

(b) Give the date the other sentence was imposed: _____ *NA* _____

(c) Give the length of the other sentence: _____

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? ☐ Yes ☒ No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.*

PETITIONER WAS TOLD BY Defense Counsel Aug 2001 TO SIGN A PLEA GUILTY PLEA, which he WAS NEVER READ the consequences of the plea on MAY 30, 2003 PETITIONER WAS SENTENCED ON this charge. UPON PETITIONER'S RELEASE APRIL 23, 2004 HE WAS PLACED ON House Arrest June 2004 UOP #1 PETITIONER WAS VIOLATED FOR HAVING A COMPUTER AT HIS RESIDENCE which he SPENT 6 months INCARCERATED AND TRANSFERRED IN 2005 TO CENTRAL UOP CENTER TO AWAIT SPACE AVAILABILITY FOR HOME CONFINEMENT which the COURT ORDERED FOR THE SECOND TIME AND LATTER MODIFIED House Arrest TO WORK RELEASE IN 2005 WITHOUT ANY HEARING UOP #2 WHILE AT CENTRAL UOP PETITIONER WAS ACCUSED OF KICKING ON AN EXT DOOR he WAS PLACED AT Level 5 FOR 60 DAYS SENT BACK TO CUOP AND TRANSFERRED TO SVOP ON AN ADMINISTRATED TRANSFER for UNSPECIFIED REASON AT SVOP PETITIONER WAS PLACED AT WORK RELEASE 2 weeks Before the completion he WAS VIOLATED for ESCAPE AFTER CONVICTION SERVED 60 DAYS INCARCERATION RELEASED TO Level 3 PROBATION JANUARY 2006 PROBATION VIOLATED PETITIONER FOR NOT REPORTING TO 3 APPOINTMENT AND NOT ATTENDING A PROGRAM MAY 2006 PETITIONER VOLUNTARILY TURNED him SELF INTO TROOP 4 ON A UOP which PETITIONER WAS SENTENCED TO 2 YEARS Level 4 House Arrest 3RD Time. SENTENCED TO House Arrest AND WAS AMENDED TWICE TO WORK RELEASE PETITIONER REPORTED TO his FIRST VISIT AT Plummer Community Corrections which his host WAS DENIED PETITIONER WAS VIOLATED TAKEN TO SVOP the COURT modified the sentence to Level 4 WORK RELEASE

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -
 - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.
- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief:

CAREFULLY REVIEW THIS ENTIRE
TO PRESENT.
CASE FROM 12-99 ARREST ALL THE CONSTITUTIONAL VIOLATIONS WHICH THE SUPERIOR
COURT VIOLATED. PETITIONER ASKS FOR A RELEASE FROM CUSTODY WITH NO PROBATION
 or any other relief to which petitioner may be entitled. TO FOLLOW DISCHARGE AS UNIMPROVED.

 Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on July 2 2006 (month, date, year).

Executed (signed) on July 2 2006 (date).



Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.

IN FORMA PAUPERIS DECLARATION

[insert appropriate court]

* * * * *

STATE HABEAS CORPUS

STATE Remedies

IN THE SUPERIOR COURT FOR THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

IN THE MATTER OF:

CIVIL ACTION #

MICHAEL KEVIN HOFFMAN
movant pro se,

VS.

THE STATE OF DELAWARE
AND • Respondent,

WARDEN VINCENT BIANCO
CENTRAL Violation of Probation center
PO BOX 5003
SMYRNA DELAWARE 19977

RESPONDENT,

WRIT OF HABEAS CORPUS

You are Commanded:

TO HAVE MICHAEL KEVIN who is allegedly detained in your custody
before the Superior Court of the State of Delaware, at the COURT HOUSE
96 NEW CASTLE COUNTY DELAWARE, immediately after receipt of this writ
and to abide any order which the Court shall make, concerning petitioner.

AND further, to certify fully in writing under oath the true
cause of said detention, and to have there a copy of all process or orders
if any, under which he is detained and also this writ:

DATED:

Prothonotary

To The above named Respondent's

IN CASE OF YOUR Failure to produce MICHAEL K HOFFMAN Defendant
as above Commanded, and fully CERTIFY in writing under oath the true cause
of his detention, with a copy of all process or orders, if any, under which he
detained, within 3 days after Service hereof upon you, if the place where he
detained is not more than 20 miles from the county COURT HOUSE, or within
6 days if such place is more than 20 miles, you may be adjudged to be in
Contempt of Court:

Prothonotary

State of Delaware

ss.

NEW CASTLE County

_____, Sheriff of _____ County, deposes
and says that he served personally upon _____ the
original Writ of Habeas Corpus of which the within is a true copy, by leaving the original
Writ with _____
on _____, 20 .

SWORN TO AND SUBSCRIBED before me, _____, 20 .

Prothonotary

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE County

IN THE MATTER OF:

Civil Action #

MICHAEL KEVIN Hoffman
for a writ of HABEAS CORPUS, Petitioner Prose

MEMORANDUM IN SUPPORT OF WRIT OF HABEAS CORPUS

THE above defendant submits this memorandum in support
of his petition for writ of Habeas corpus. petitioner states the
following in support

1. The CRIMINAL Action number in this case is VN 000 10272 04
05

2. YOUR petitioner is being UNLAWFULLY RESTRAINED OF HIS LIBERTY
IN VIOLATION OF THE LAWS OF THE STATE OF DELAWARE TO PROCEDURAL
DUE PROCESS BY REASON OF:

PETITIONER WAS TRANSFERRED FROM SUSSEX VOP ON 6/29, 06
TO AWAIT SPACE AVAILABILITY FOR LEVEL 4 WORK RELEASE ON 6/28, 06 OTHERS
WHO WERE RECENTLY SENTENCED TO WORK RELEASE WERE PLACED AT WORK RELEASE
PETITIONER WAS DEPRIVED OF LIFE AND LIBERTY WITHOUT DUE PROCESS OF LAW
WHEN HE WAS SENT TO CVOP TO AWAIT SPACE AVAILABILITY WHICH HE IS STILL
AWAITING PLACEMENT FOR WORK RELEASE, THE STATE DEPARTMENT OF CORRECTIONS
FAILED TO COMPLY WITH THE SENTENCING ORDER BY PLACING
PETITIONER AT CVOP PRIOR THEN SENDING HIM TO WORK RELEASE DEPRIVES HIM
OF LIFE AND LIBERTY CURRENTLY MOVANT PETITIONER STILL AWAITS
PLACEMENT AT WORK RELEASE THE COURT ORDERED SUSSEX WRL AS PER STATED
AT THE VOP PROCEEDING CONCERNS ARE OTHERS WHO WERE RECENTLY SENTENCED
TO WORK RELEASE PLACEMENT WAS MADE WHEN PETITIONER HAS AWAITED
PLACEMENT SINCE JUNE 14, 06 AND STILL HAS NOT BEEN PLACED AT WORK RELEASE

Wherefore:

PETITIONER prays the petition ISSUED and the
WRIT BE GRANTED That petitioner either be PLACED AT WORK RELEASE
IMMEDIATELY OR BE DISCHARGED FROM CUSTODY TO A LEVEL 3 PROBATIONARY TERM.

DATED JULY 13, 06

Michael Hoffman #426044
Central VOP Center
PO Box 5003